UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL G. POLAN, MARIKA JOANNIDIS,
STEPHEN P. ROBERTS, JOHN W. STEPHENSON,
and GABI ROTHENSTEIN

Appeal 2007-0937
Application 10/666,869
Technology Center 2100

Decided: May 30, 2007

Before ANITA PELLMAN GROSS, ROBERT E. NAPPI,
and JAY P. LUCAS, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Polan, Joannidis, Roberts, Stephenson, and Rothenstein (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1

through 3, 5, 8, 9, and 11 through 13, which are all of the claims pending in this application.

Appellants' invention relates to a web service provisioning system. Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A web service provisioning system for provisioning a plurality of web services, the provisioning system comprising:

a subscription system including:

web service description data storage for storing web service description data correlated to each web service of the plurality of web services, wherein the web service description data defines the respective web service in Web Services Definition Language, and

provisioning process data storage for storing respective provisioning processes data for each web service of the plurality of web services and for each of a plurality of provisioning web services that correlate to respective administrative systems supporting the plurality of web services, wherein the provisioning processes data is in Web Services Flow Language; and

an invocation system operatively coupled to the subscription system and configured for:

receiving a selection of a first web service,

invoking the respective provisioning processes data for the first web service, and

invoking the respective provisioning processes data for each provisioning web service that correlates to an administrative system supporting the first web service.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Fletcher (Fletcher I)	US 2003/0055624 A1	Mar. 20, 2003
Fletcher (Fletcher II)	US 2003/0135628 A1	Jul. 17, 2003

Claim 5 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1, 2, 5, 8, 9, and 11 through 13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Fletcher I.

Claims 1 through 3, 8, 11, and 12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Fletcher II.

We refer to the Examiner's Answer (mailed November 13, 2006) and to Appellant's Brief (filed August 30, 2006) and Reply Brief (filed November 13, 2006) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will reverse the indefiniteness rejection of claim 5, reverse the anticipation rejection of claims 1, 2, 5, 8, 9, and 11 through 13 over Fletcher I, affirm the anticipation rejection of claims 1 through 3, 8, 11, and 12 over Fletcher II, and enter a new ground of rejection of claim 13 under 35 U.S.C. § 102(e) over Fletcher II.

OPINION

We first note that Appellants have argued claims 1, 2, 5, 8, 9, and 11 through 13 as a single group, with claim 1 as representative, for the rejection over Fletcher I. Similarly, Appellants have argued claims 1 through 3, 8, 11, and 12 as a single group, with claim 1 as representative, for the rejection

over Fletcher II. Accordingly, for each rejection we will treat all of the claims as a single group with claim 1 as representative.

The Examiner (Answer 4) first rejects claim 5 as indefinite, asserting that "The provisioning system" lacks antecedent basis. However, claim 5 clearly refers to the web service provisioning system of claim 1. Thus, although claim 5 could more precisely refer to "The web service provisioning system," the claim defines the patentable subject matter with a reasonable degree of particularity and distinctness. Accordingly, we cannot sustain the rejection of claim 5 under 35 U.S.C. § 112, second paragraph.

The Examiner (Answer 4) next rejects claims 1, 2, 5, 8, 9, and 11 through 13 as being anticipated by Fletcher I. The Examiner asserts (Answer 5) that the claim 1 and claim 8 limitations of storing provisioning processes data for each web service that correlates to respective administrative systems supporting the web services and invoking the provisioning processes data for each of the web services that correlates to administrative systems supporting the web services are described in paragraphs [0024], [0050], [0063], [0064], and [0075] of Fletcher I.

Appellants contend (Br. 8-10) that Fletcher I fails to disclose the above-noted limitations. Specifically, Appellants contend (Br. 9) that although a system like that of Fletcher I must include administrative services, Fletcher I makes no mention in the portions relied upon by the Examiner nor anywhere else about provisioning the administrative systems by web services. Therefore, Appellants contend (Br. 10) that Fletcher I fails to anticipate the claims. Accordingly, the issue is whether Fletcher I discloses the limitations of storing provisioning processes data for each web

service that correlates to an administrative system supporting the web services and invoking that data.

Appellants (Specification 5:13-15) define "provisioning" as "[c]onfiguring a system with account and other information sufficient to allow a particular consumer to access a particular web service." Nowhere in the portions relied upon by the Examiner, nor in any other portions, of Fletcher I do we find any mention of provisioning. Fletcher I refers to "[a] content framework such as a portal platform [which] provides many built-in services for content management and service hosting, such as persistence, personalization, and transcoding" (see Fletcher I, para. 0040). Further, the portal platform "perform[s] functions such as logging of events, billing, and other types of administrative operations pertaining to execution of the web service" (see Fletcher I, para. 0050). Thus, Fletcher I mentions the administrative systems that support the web services and alludes to provisioning by referring to personalization. However, we find no storing of provisioning processes data for the web services that correspond to the administrative systems. Therefore, we cannot sustain the anticipation rejection of claim 1 and the claims grouped therewith, claims 2, 5, 8, 9, and 11 through 13.

The Examiner asserts (Answer 6) that claims 1 through 3, 8, 11, and 12 are anticipated by Fletcher II. Appellants contend (Br. 10-11) that Fletcher II fails to disclose "provisioning processes data storage for storing respective provisioning processes data ... for each of a plurality of provisioning web services that correlate to respective administrative systems supporting the plurality of web services" and "invoking the respective provisioning processes data for each provisioning web service that correlates

to an administrative system supporting the first web service." The second issue, therefore, is whether Fletcher II discloses the limitations of storing provisioning processes data for each web service that correlates to an administrative system supporting the web services and invoking that data.

Fletcher II discloses (Fletcher II, para. 0035) that an aggregated service is a web service comprised of sub-services (which are also web services). Fletcher II discloses (Fletcher II, para. 0051):

> A developer who creates the source code for a software resource to be deployed as a web service specifies the authentication, authorization, and/or configuration methods to be provided by that service. The services may then be aggregated as described in the related inventions, and the techniques of the present invention may be used for provisioning the aggregated service.

As an example, Fletcher II states (Fletcher II, para. 0051) that the aggregated service provides e-mail services for a human user, and a sub-service establishes a user's e-mail account. The sub-service is a provisioning web service that correlates to an administrative system. Fletcher II continues (Fletcher II, para. 0051) that establishing the user's e-mail account requires inputting and storing information such as the user's full name, an e-mail user identifier, a password, and configuration information, or, rather, provisioning processes data. Fletcher II discloses (Fletcher II, para. 0051) that WSDL documents define the operations provided by the sub-services and the parameters used to invoke the operations. Further, since the stored user identifier and password can be used to authenticate the user to access e-mail messages using another sub-service of the aggregated e-mail service,

Fletcher II discloses invoking the provisioning processes data for the provisioning web service.

Thus, Fletcher II discloses storing provisioning processes data for each web service that correlates to an administrative system supporting the web services and invoking that data. Accordingly, we will sustain the anticipation rejection of claim 1 and the claims grouped therewith, claims 2, 3, 8, 11, and 12, over Fletcher II.

Under the provisions of 37 C.F.R. § 41.50(b), we enter the following new ground of rejection against Appellants' claim 13.

Claim 13 is rejected under 35 U.S.C. § 102(e) as being anticipated by Fletcher II. Claim 13 is identical to claim 12 except that it depends from claim 8 instead of claim 1. The Examiner rejected independent claims 1 and 8 and also claim 12 under 102(e) as anticipated by Fletcher II. We have affirmed the anticipation rejection of claims 1, 8, and 12. Therefore, claim 13 is anticipated for the same reasons as claim 12.

ORDER

The decision of the Examiner rejecting claim 5 under 35 U.S.C. § 112, second paragraph, is reversed. The decision of the Examiner rejecting claims 1 through 3, 5, 8, 9, and 11 through 13 under 35 U.S.C. § 102(e) is reversed as to claims 1, 2, 5, 8, 9, and 11 through 13 over Fletcher I, but affirmed as to claims 1 through 3, 8, 11, and 12 over Fletcher II. Further, we have entered a new ground of rejection for claim 13 under 35 U.S.C. § 102(e) over Fletcher II. Thus, the Examiner's decision is affirmed-in-part.

Regarding the affirmed rejection(s), 37 C.F.R. § 41.52(a)(1) provides "Appellant may file a single request for rehearing within two months from the date of the original decision of the Board."

In addition to affirming the Examiner's rejection(s) of one or more claims, this decision contains a new ground of rejection pursuant to 37 C.F.R. § 41.50(b) (effective September 13, 2004, 69 Fed. Reg. 49960 (August 12, 2004), 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)). 37 C.F.R. § 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review."

37 C.F.R. § 41.50(b) also provides that Appellants, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

> (1) *Reopen prosecution.* Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the Examiner, in which event the proceeding will be remanded to the Examiner. . . .
>
> (2) *Request rehearing.* Request that the proceeding be reheard under § 41.52 by the Board upon the same record. . . .

Should Appellants elect to prosecute further before the Examiner pursuant to 37 C.F.R. § 41.50(b)(1), in order to preserve the right to seek review under 35 U.S.C. §§ 141 or 145 with respect to the affirmed rejection, the effective date of the affirmance is deferred until conclusion of the prosecution before the examiner unless, as a mere incident to the limited prosecution, the affirmed rejection is overcome.

If Appellants elect prosecution before the Examiner and this does not result in allowance of the application, abandonment or a second appeal, this case should be returned to the Board of Patent Appeals and Interferences for final action on the affirmed rejection, including any timely request for rehearing thereof.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART
37 C.F.R. § 41.50(b)

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